



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3460]

THURSDAY, THE TENTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 19873/2023

Between:

1. TIPIRNENI LAKSHMI PRASAD, S/O LATE RAJA GOPAL
RAO, AGE. 76 YRS, R/O PLOT NO.1310/A, ROAD NO.66,
JUBILEE HILLS, HYDERABAD, TELANGANA STATE.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS
PRINCIPAL SECRETARY, MUNICIPAL ADMINISTRATION
AND URBAN DEVELOPMENT AUTHORITY
DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR
DISTRICT.

2. KAKINADA URBAN DEVELOPMENT AUTHORITY, REP.
BY ITS VICE CHAIRMAN, KAKINADA, KAKINADA
(ERSTWHILE EAST GODAVARI) DISTRICT.

3. KAKINADA MUNICIPAL CORPORATION, REP. BY ITS
COMMISSIONER, KAKINADA, KAKINADA (ERSTWHILE
EAST GODAVARI) DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of MANDAMUS declaring the inaction on the part of the respondents particularly the 2nd respondent with regard to issuance of final lay out in respect of property situated in an extent of Ac 4.1447 cents covered by Sy.No.164/3 of Ramanayyapeta-2, Kakinada, East Godavari District, in spite of lapse of 2 years from the date of approval of tentative layout plan file No.1060/0001/LP/KKD/2021, dated. 27.06.2021, as illegal, arbitrary, malafide, violation of the rules in Vogue and violation of principles of Natural Justice besides violation of Constitutional Guarantees and to consequently direct the respondents to approve final layout plan in respect of the above said property pursuant to the said tentative layout plan, in the interest of justice and to pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to pass an Interim direction to the 2nd respondent to approve final layout plan in respect of the property situated in an extent of Ac 4.1447 cents covered by Sy.No.164/3 of Ramanayyapeta-2, Kakinada, Fast Godavari District pursuant to tentative layout plan file No.1060/0001/LP/KKD/2021, dated: 27.06.2021, pending disposal of the Writ Petition and to pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to grant leave to the petitioner herein/ Petitioner in main WP No. 19873 of 2023 to file reply/ rejoinder on his behalf in the interest of justice and pass

Counsel for the Petitioner:

1.GVVS SR SUBRAHMANYAM

Counsel for the Respondent(S):

1.GP FOR MUNICIPAL ADMN URBAN DEV

2.KOMMASANI SRINIVASULA REDDY SC FOR URBAN
DEVELOPMENT AUTHORITIES

The Court made the following:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY**W.P.No.19873 of 2023****O R D E R:**

The present writ petition is filed questioning the inaction of Respondent No.2 in issuing final layout in respect of the property in an extent of Ac.4.1447 cents covered by Sy.No.164/3 of Ramanayyapeta-2, Kakinada, in spite of lapse of two years from the date of approval of tentative layout plan vide File No.1060/0001/LP/KKD/2021 dated 27.06.2021.

2. The facts leading to the filing of the writ petition are as under:

The Petitioner along with his three daughters are the absolute owners of an extent of Ac.4.1447 cents covered by the property described above. As they intend to develop a residential layout in the said land, application was submitted to Respondent No.2 and a tentative layout was approved on 27.06.2021. It is stated that the Petitioners had executed all the prerequisites for issuance of tentative layout. Thereafter, they had applied for issuance of final layout. Though the Petitioners complied with all

the requirements for issuance of final layout, the same was not being issued. Hence, the present writ petition was filed.

3. In the counter affidavit filed by Respondent No.2, it was stated that after submission of final layout plan by the Petitioners, an endorsement was given on 25.08.2022, detailing the shortfalls i.e. Site photos, revised drawing duly showing the boundaries as per combined FMB and other documents as per planning wing remarks and that a complaint was lodged by Jyothula Venkateswararao and two others regarding link road which is directly effecting their site. Therefore, the final layout would not be processed. In the counter affidavit, it was also stated that one of the conditions for approval was that the approved layout would be cancelled without any notice and action will be taken as per law, if there is any litigation pending in any Court of law. As O.S.No.28 of 2023 on the file of the IV Additional District Judge, Kakinada is pending, Respondent No.2 could not process the issuance of final layout.

4. Learned Senior Counsel Sir K.S.Murthy appearing for the Petitioners submits that as regards the shortfall notice, the endorsement dated 25.08.2022 was not served on the Petitioners

and even otherwise the Petitioners are willing to comply with the shortfalls pointed out therein. As regards the plea in the counter affidavit referring to clause 15 of the tentative layout that the layout would stand cancelled without notice if a litigation is pending, the learned Senior Counsel would contend that such a clause is not available in the tentative layout which was issued in favour of the Petitioners on 27.06.2021.

5. Learned Standing Counsel for the Respondent-Corporation submits that O.S.No.28 of 2023 on the file of the IV Additional District Judge was filed for partition and the same is pending.

6. Having heard the respective counsel, this Court is of the opinion that as the Petitioners are willing to comply with the shortfall in endorsement dated 25.08.2022, nothing needs to be stated further on this aspect. As regards the objection of pendency of litigation, the plea in the counter that tentative layout would be cancelled if there is any litigation pending as per clause 15 does not appear to be correct. The clause 15 in the tentative layout issued in favour of the Petitioners reads as under:

“15. If there is any litigation is pending in any Court of law, the applicant/developer shall be responsible for the same and if any Court orders are received against the

applicant/developers, the approved layout plan automatically stands cancelled without notice and action will taken as per law.”

7. A reading of the above would show that the cancellation is contemplated only if there are any adverse orders against the Petitioners. In this case, the suit is only for partition and mere pendency of a suit is not a ground to place reliance on clause 15 of the conditions of tentative layout.

8. Therefore, the writ petition is disposed of with the following directions:

(i) The Petitioners shall submit compliance to shortfalls pointed out in the endorsement dated 25.08.2022 within a period of six (6) weeks from the date of receipt of a copy of this order.

(ii) On receipt of the compliance of shortfalls, the Respondents shall further process and consider the same for issuance of final layout without reference to the pendency of O.S.No.28 of 2023 on the file of IV Additional District Judge, Kakinada, unless orders injuncting the Respondent-authority from issuing final layout are issued by the civil Court.

(iii) The time calendared for issuance of final layout in favour of Petitioner is six (6) weeks from the date of receipt of certified copy of the order.

(iv) No orders as to costs.

As a sequel, pending applications, if any, shall stand closed.

Date: 10.07.2025
KLP

NYAPATHY VIJAY, J